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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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UNITED STATES OF AMERICA      *
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                                * 08-cr-128-01-PB
                                * November 19, 2009
                                * 11:40 a.m.
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KURT SANBORN                  *
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* * * * *
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EXCERPTED TRANSCRIPT OF SENTENCING HEARING
BEFORE THE HONORABLE PAUL J. BARBADORO

Appearances:

For the Government: Robert Kinsella, AUSA
U.S. Attorney's Office
53 Pleasant Street
Concord, NH 03301

For the Defendant: Alan Baum, Esq.
Law Offices of United Defense Group
4181 Sunswept Drive
Studio City, CA 91604

Donald A. Kennedy, Esq.
Kennedy Law Office
78 W. Merrimack Street
Manchester, NH 03101

Probation Officer: Kevin Lavigne

Court Reporter: Sandra L. Bailey, LCR, CM, CRR
Official Court Reporter
United States District Court
55 Pleasant Street
Concord, NH 03301
(603)225-1454

1 EXCERPTED TRANSCRIPT

2 THE COURT: Pursuant to the Sentencing Reform
3 Act of 1984 it is the judgment of the court that the
4 defendant, Kurt Sanborn, is hereby committed to the
5 custody of the Bureau of Prisons to be in prison for a
6 term of 30 months.

7 Upon release from imprisonment the defendant
8 shall be placed on supervised release for a term of
9 three years.

10 Within 72 hours of release from the custody of
11 the Bureau of Prisons the defendant shall report in
12 person to the probation office in the district to which
13 the defendant is released.

14 While on supervised release the defendant
15 shall not commit another federal, state or local crime,
16 shall comply with the standard conditions that have been
17 adopted by this court, and shall comply with the
18 following additional conditions:

19 The defendant shall not illegally possess a
20 controlled substance.

21 The defendant shall not possess a firearm,
22 destructive device, or any other dangerous weapon.

23 The defendant shall submit to DNA collection.

24 The drug testing condition required by 18,
25 USC, Section 3563(a)(5) is suspended based on the

1 court's determination that the defendant poses a low
2 risk of future substance abuse.

3 The defendant shall pay any financial penalty
4 that is imposed by this judgment and that remains unpaid
5 at the commencement of the term of supervised release.

6 The defendant shall provide the probation
7 officer with access to any requested financial
8 information.

9 The defendant shall apply all monies received
10 from income tax refunds, lottery winnings, judgments
11 and/or other anticipated or unexpected financial gains
12 to the outstanding court ordered financial obligation.

13 The defendant shall not incur new credit
14 charges or open additional lines of credit without the
15 approval of the probation officer unless he is in
16 compliance with the installment payment schedule.

17 The defendant shall refrain from engaging in
18 any occupation involving fiduciary responsibilities
19 during the term of supervision.

20 It is further ordered that the defendant shall
21 pay a special assessment of \$100.

22 It is further ordered that the defendant shall
23 make restitution to the following persons in the
24 following amounts. Diamond Action, Inc., \$293,960.79;
25 HNTB Sports Assembly Architecture, \$9,450. Any payment

1 that is not payment in full shall be divided
2 proportionately among the persons names.

3 The court finds that the defendant does not
4 have the ability to pay a fine. The court will waive
5 the fine in this case. The court has determined that
6 the defendant does not have the ability to pay interest
7 and it is ordered that the interest requirement is
8 waived for the restitution. The defendant is ordered to
9 begin payments towards the total criminal monetary
10 penalties immediately, and upon commencement of the term
11 of supervised release the probation officer shall review
12 the defendant's financial circumstances and recommend a
13 payment schedule on any outstanding balance for approval
14 by the court.

15 The defendant shall surrender himself to an
16 institution designated by the Bureau of Prisons on or
17 before 2 p.m. on January 8th.

18 The court recommends that the defendant be
19 able to serve his sentence as close to family members in
20 Massachusetts if possible, Fort Devens if it's an
21 appropriate facility for his incarceration in the
22 judgment of the Bureau of Prisons.

23 Are there any objections to the sentence other
24 than those previously raised?

25 MR. BAUM: May I have just a moment, your

1 Honor.

2 THE COURT: Yes.

3 (Attorney Baum consulting Attorney Kinsella.)

4 MR. BAUM: Not at this time, your Honor.

5 There may be a joint motion filed concerning the
6 numbers, the actual amount of restitution, but we're not
7 prepared to deal with that now. We will accept the
8 court's calculation --

9 THE COURT: Well, if there's going to be any
10 modification to restitution I want the government to
11 represent that it's consulted with the victim, and any
12 position that the victim takes that's inconsistent with
13 any position the government may take, that it's fully
14 presented to the court.

15 MR. KINSELLA: Of course, judge, and this is
16 just brought to my attention this second. I'm really
17 not in a position to do the math right now. I told him
18 we will look at the matter, report to the victim and
19 also to you as soon as possible.

20 THE COURT: Yeah, you know my point, though.

21 MR. KINSELLA: I do.

22 THE COURT: They came here for sentencing and
23 wanted to know what the sentence is going to be, and if
24 there is going to be any change in the restitution
25 portion of the sentence I want him to be consulted, I

1 want his position to be presented to the court --

2 MR. KINSELLA: Understood.

3 THE COURT: -- before any change is made in
4 the sentence.

5 MR. KINSELLA: Understood.

6 THE COURT: All right, anything else?

7 MR. BAUM: No, your Honor.

8 THE COURT: I will impose the sentence as I
9 have read it. You may have a limited right to appeal.
10 If you want to appeal, consult with your attorney and
11 direct him to file a notice of appeal on your behalf.
12 If you prefer, you can ask the clerk's office for help,
13 but the notice of appeal does have to be filed within
14 ten days or you lose your right to appeal.

15 Anything else?

16 MR. BAUM: No, your Honor.

17 MR. KINSELLA: Thank you, your Honor.

18 (Adjourned at 12:10 p.m.)

19 CONCLUSION OF EXCERPT

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C E R T I F I C A T E

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I, Sandra L. Bailey, do hereby certify that

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the foregoing transcript is a true and accurate

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transcription of the within proceedings, to the best of

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my knowledge, skill, ability and belief.

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10 Submitted: 11/23/09

/s/ Sandra L. Bailey

SANDRA L. BAILEY, LCR, CM, CRR

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